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BY E-MAIL (sullivanysdchambers@nysd.uscourts.gov)

Honorable Richard J. Sullivan
United States District Court
Southern District of New York
Thurgood Marshall United States Court House
40 Foley Square, Room 2104
New York, NY 10007

Re: *Enzo Biochem, Inc. et al. v. PerkinElmer, Inc. et al.*, No. 03 Civ. 3817 (RJS)

Dear Judge Sullivan:

We write in response to Mr. Gunther's March 3, 2014 letter regarding PerkinElmer's motion to strike Dr. Arezou Azarani's evaluation prepared at the request of Dr. Gregory Bell as an input for his supplemental expert report, and provided to PerkinElmer on February 26, 2014.

PerkinElmer's letter and request for a pre-motion conference is procedurally improper and should be given no effect. Similarly to PerkinElmer's March 3 letter regarding Dr. Bell, its March 3 letter regarding Dr. Azarani "relates to what amounts to a discovery dispute." (Docket No. 156; *see also* March 3, 2014 letter (citing Fed. R. Civ. P. 37(c)(1) in support of its argument that Dr. Azarani's evaluation should be precluded)). As with the discovery dispute presented in its March 3 letter regarding Dr. Bell, PerkinElmer failed to comply with the joint letter requirement in Rule 2.G of the Court's Individual Practices. PerkinElmer also failed to meet and confer with Enzo regarding this dispute before raising it with the Court, in violation of Federal Rule of Civil Procedure 37(a)(1). Accordingly, based on these procedural improprieties alone, the Court should "take no action with respect to PerkinElmer's request." (Docket No. 156)

Moreover, to the extent PerkinElmer's *Daubert* motion to exclude Dr. Azarani from testifying at trial regarding the evaluation reiterates or incorporates its March 3 letter, we respectfully request permission to submit a unified response as appropriate that will deal both with the March 3, 2014 letter and the *Daubert* motion addressed to Dr. Azarani.

Respectfully submitted,

/s/ Ronald D. Lefton
Ronald D. Lefton

cc: Counsel of Record

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